APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,268	01/29/2004	Felix Gti Andrew	50037.208US01	5974

27488   7590   05/30/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
TERMANINI, SAMIR

ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
05/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _2/28/2008_.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under _Ex parte Quayle_, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-18_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-18_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _29 January 2004_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some *   c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
          application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

BACKGROUND

1.   This Non-Final Office Action is responsive to the following communications: R.C.E. filed on 2/28/2008.

2.   Claims 1-18 are pending in this case. Claims 1 and 11 are independent in form.

RESPONSE TO AMENDMENT

3.   The terminal disclaimer filed 5/21/2007 concerning the Examiner's nonstatutory double patenting rejection of claims 1-18 has been accepted. Therefore, the rejection(s) have been withdrawn.

4.   Arguments concerning the Examiner's Rejections of claims 1-18 under 35 U.S.C. §102(b) in the previous Office Action (Mail dated: 9/6/2007) have been fully considered but are not persuasive. Therefore, the rejection(s) have been maintained.

5.   New rejections are being made under 35 U.S.C. §101 concerning claims 11-18 because they are directed to non statutory subject matter, discussed below in detail.

CLAIM REJECTIONS-35 U.S.C. § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine,
> manufacture, or composition of matter, or any new and useful
> improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

7.. **Claims 11-18** are rejected under 35 U.S.C. §101 because the claimed

invention is directed to non-statutory subject matter, and further raises questions as to

whether the claims are directed to an abstract idea. More specifically, the claims lack

the necessary physical articles or objects to constitute a <u>machine</u> or a <u>manufacture</u>

within the meaning of 35 U.S.C. 101. They are clearly not a series of steps or acts, to be

a <u>process</u>, nor are they a combination of chemical compounds to be a <u>composition of</u>

<u>matter</u>. The "compute-readable medium" limitation recited, in claims 11-18, is not

limited to those that are "computer-readable" (the claimed "storage medium") and likewise

does not define any structural and functional interrelationship between the computer

program and other claimed elements of a computer which permit the computer program's

functionality to be realized.

The specification impermissibly redefines the claimed "compute-readable medium":

> Communications connections are an example of communication media.
> Communication media typically embodies computer readable
> instructions, data structures, program modules or other data in a
> modulated data signal such as a cartier wave or other transport
> mechanism and includes any information delivery media. The term
> "modulated data signal" means a signal that has one or more of its
> characteristics set or changed in such a manner as to encode
> information in the signal. By way of example, and not limitation,
> communication media includes wired media such as a wired network
> or direct-wired connection, and wireless media such as acoustic,
> RF, infrared and other wireless media. The term computer readable
> media as used herein includes both storage media and communication
> media.

(emphasis added). Therefore, claims 11-18, being directed toward computer listings *per*

se, fail to fall within a statutory category.

CLAIM REJECTIONS-35 U.S.C. § 102

8.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this Office

action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed
> publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of
> application for patent in the United States.

9.   **Claims 1-18** are rejected under 35 U.S.C. 102(b) as being anticipated

by Andrew et al. (US Pat. No. US 6,392,673 B1).

I.   Prior Art Anticipation of Claimed Limitations.

As to independent **claim 1**, Andrew et al. describe(s): A method in an operating

system for resizing an operating system interface element containing controls that have

control definitions ("control definitions which indicate the size and location of each

control relative to the dialogue borders." col. 3, lines 55-65), comprising: receiving a

command to resize the interface element ("resizing command," col. 6, lines 5-9); defining

resizable regions of the interface element including determining whether each of the

controls within the interface element is resizable ("defining resizable regions" col. 7,

lines 40-45); cumulating a total score by adding a value associated with each control in

a given column or row contributing its respective value to the total score for the

respective column or row the column or row being designated as resizable based on the

total score for the column or row and a minimum height and width is maintained

wherein defining resizable regions of the interface element includes either ignoring a

control that is a last control in its row or ignoring a control that is a last control in its

column; ("associated with each of said control definitions with each control in a given

column or row contributing its respective value to the total score for the respective

column or row, said column or row being designated as resizable based on the total

score for said column or so defining guides separating columns and rows of said row"

col. 7, lines 40-51; see also "If the total weight is zero or greater, the column or row is

deemed resizeable" col. 4, lines 35-37), determining when there is a special row and

column (element S140, see fig.2); adjusting the resizable regions in response to the

determinations regarding the special row and the special column ("When a column or

row is designated as special, the spacing and alignment...these controls is maintained

when the dialogue is resized," col. 4, lines 45-50); and resizing the interface element by

resizing only the resizable regions of the interface element ("resized by resizing only

said resizable regions of said interface element" col., lines 52-55).

As to dependent **claim 2**, which depends from claim 1, Andrew et al. further

discloses(s): wherein the step of defining includes defining guides separating columns

and rows of the controls, such that each of the resizable regions is bounded by at least

two of the guides (identical language at col. 7, lines 55-60).

As to dependent **claim 3**, which depends from claim 2, Andrew et al. further

discloses(s): wherein the guides are defined such that a separation between adjacent

ones of the guides is always a minimum magnitude (identical language at col. 7, lines

60-21).

As to dependent **claim 4**, which depends from claim 2, Andrew et al. further

discloses(s): wherein defining includes identifying each of the controls as to whether it

is vertically or horizontally resizable and designating each of the columns and rows as

resizable responsively to the step of identifying (identical language at col. 7, lines 63-

67).

As to dependent **claim 5**, which depends from claim 1, Andrew et al. further

discloses(s): wherein defining includes identifying each of the controls as to whether it

is vertically or horizontally resizable (identical language, col. 8, lines 1-3).

As to dependent **claim 6**, which depends from claim 5, Andrew et al. further

discloses(s): wherein defining includes defining guides separating columns and rows of

the controls, such that each of the resizable regions is bounded by at least two of the

guides (identical language at col. 8, lines 4-7).

As to dependent **claim 7**, which depends from claim 6, Andrew et al. further

discloses(s): wherein the interface element is a window ("window" col. 7, lines 27-28).

As to dependent **claim 8**, which depends from claim 2, Andrew et al. further

discloses(s): the method of claim 2, further comprising the steps of: designating a row

and column ("column or row," col. 8, lines 8-25) as special when the row contains a set

of controls that lies in a predetermined geometric configuration with a predefined range

of tolerance (identical language at col. 8, lines 33-36); and resizing the interface element

while maintaining a fixed geometric distance between the controls of the set after the

step of resizing ("...resizing said interface element while maintaining a fixed geometric distance between said controls of said set...," col. 8, lines 31-39).

As to dependent **claim 9**, which depends from claim 2, Andrew et al. further discloses(s): wherein defining the resizable regions of the interface element including determining whether each of the controls within the interface element is resizable further comprises determining when a control may be resized that is initially considered non-resizable ("dynamically defining resizable regions of said interface element" col. 10, lines 36-42).

As to dependent **claim 10**, which depends from claim 9, Andrew et al. further discloses(s): wherein determining when the control may be resized that is initially considered non-resizable ("treated as one," col. 4, line 57) further comprises determining when there are no controls that would be impacted by resizing the control ("[to] to preserve spacing," col. 4, lines 55-60).

As to independent **claim 11**, Andrew et al. describe(s): A computer-readable medium for dynamically resizing a window without altering operating system code ("A method in an operating system for dynamically resizing a dialogue box of a graphical user interface without altering operating system code," col. 10, lines 47-67), the window containing controls ("dialogue box containing controls" col. 10, lines 47-67 Note that, "windows with controls [are] called dialogues [boxes]." col. 1, lines 15-20), the controls being defined by properties indicating respective positions of each of the controls within the window and control-type data indicating respective types of each of the controls stored in a memory ("the controls being defined by properties indicating respective

positions of each of the controls within said dialogue box and control-type data indicating respective types of each of said controls stored in a memory" col. 10, lines 47-67), comprising: receiving a command to resize the window ("receiving a command to resize the dialogue box" col. 10, lines 47-67; Note that, "windows with controls [are] called dialogues [boxes]." col. 1, lines 15-20), identifying for each control whether the control is resizable based on the control type and a position of the control relative to any of the other controls within the window ("identifying for each control whether the control is resizable based on the control type," col. 10, lines 47-67); responsively to the step of receiving, dividing the window into sub areas, responsively to the step of dividing ("responsively to the step of receiving, dividing the dialogue box into sub areas" col. 10, lines 47-67), dynamically determining whether the sub areas are resizable based on the reliability of the controls that are at least partially in the sub areas while maintaining any minimum height associated with the controls maintaining any minimum height associated with the controls; wherein the determining whether the sub areas are resizable includes either ignoring a control that is a last control in its row or ignoring a control that is a last control in its column; wherein a control is the last control in its column when there are no controls to the right of the control in its column; and wherein a control is the last control in its row when there are no controls below the control in is row; and ("dynamically deter- mining whether the sub areas are resizable based on the reliability of the controls that are at least partially in the sub areas" col. 10, lines 47-67) and resizing the window by resizing the resizable sub areas of the window wherein the resizing is executed independent of ignored controls ("resizing the

dialogue box by resizing the resizable sub- areas of the dialogue box." col. 10, lines 47-67),

As to dependent **claim 12**, which depends from claim 11, Andrew et al. further discloses(s): dividing the window into sub areas, further comprises defining guides separating columns and rows of the controls, such that each of the resizable regions is bounded by at least two of the guides ("defining guides separating columns and rows" col. 8, lines 47-58).

As to dependent **claim 13**, which depends from claim 12, Andrew et al. further discloses(s): the guides are defined such that a separation between adjacent ones of the guides is always a minimum magnitude ("is always a minimum magnitude." col. 7, lines 60-62).

As to dependent **claim 14**, which depends from claim 12, Andrew et al. further discloses(s): dividing the window into sub areas, further comprises identifying each of the controls as to whether it is vertically or horizontally resizable and designating each of the columns and rows as resizable (identical language at col. 7, lines 63-67).

As to dependent **claim 15**, which depends from claim 11, Andrew et al. further discloses(s): identifying for each control whether the control is resizable further comprises identifying each of the controls as to whether it is vertically or horizontally resizable (identical language at col. 7, lines 63-67).

As to dependent **claim 16**, which depends from claim 15, Andrew et al. further discloses(s): dividing the window into sub areas further comprises defining guides

separating columns and rows of the controls, such that each of the resizable regions is

bounded by at least two of the guides (identical language at col. 7, lines 55-60).

As to dependent **claim 17**, which depends from claim 11, Andrew et al. further

discloses(s): The computer-readable medium of claim 11, further comprising the steps

of: designating a row and column ("column or row," col. 8, lines 8-25) as special when

the row contains a set of controls that lies in a predetermined geometric configuration

with a predefined range of tolerance (identical language at col. 8, lines 33-36); and

resizing the window while maintaining a fixed geometric distance between the controls

("...resizing said interface element while maintaining a fixed geometric distance

between said controls of said set...," col. 8, lines 31-39).

As to dependent **claim 18**, which depends from claim 11, Andrew et al. further

discloses(s): identifying for each control whether the control is resizable based on the

control type ("identifying for each control whether the control is resizable based on the

control type," col. 10. lines 47-67) and the position of the control relative to any of the

other controls within the window further comprises determining when there are no

controls that would be impacted by resizing the control ("[to] to preserve spacing," col.

4, lines 55-60).

RESPONSE TO ARGUMENTS

10.   Applicant arguments, filed 2/28/2008, with respect to the 35 U.S.C.

§102(b) Rejections cited by the Examiner in the previous Office Action (dated 9/6/2007),

have been fully considered but are not persuasive. For the reasons already set forth

above, these rejections are being maintained.

CONCLUSION

11.   Although not relied upon, the following prior art is made of record because

it considered pertinent to applicant's disclosure:

>   [1]   Amro (US 5699535 A) for teaching a method, apparatus, and
>   article of manufacture direct a computer system to automatically
>   resize a plurality of open windows displayed on the computer
>   display. The method includes the first step of in response to
>   detecting a command from user controls over a first portion of a
>   displayed window, determining if the displayed window is in a
>   default size or a zoomed out size. The second step includes in
>   response to a second command from user controls, determining if a
>   change in state applies to the plurality of windows. The third
>   step includes if the change in size applies to the plurality of
>   windows and if the displayed window is in the default size,
>   automatically displaying on the computer display the plurality of
>   windows using the zoomed out size.

>   [2]   Owings (US 6335743 B1) for teaching a system and method for
>   providing a window capable of being resized where the window
>   includes at least one control.

>   [3]   Qureshi et al.   (US 6456305 B1) for teaching a method
>   and system for automatically sizing and positioning a graphical
>   display of HTML objects to fit the dimensions and video display
>   resolution of a display window.

>   [4]   Kellerman et al. (US 6750887 B1) for teaching a method for
>   using client properties, size values and position values for
>   calculation of a component so that any resizing and repositioning
>   of components are done automatically.

>   [5]   Gunther (US 6983422 B1) for teaching a computer controlled
>   processes relying upon a graphical user interface to effect a man-
>   machine interface.

12.   Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samir Termanini whose telephone number is (571) 270-1047. The Examiner can normally be reached from 9 A.M. to 4 P.M., Monday through Friday (excluding alternating Fridays).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, *see* http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samir Termanini/
Examiner, Art Unit 2178

/Stephen S. Hong/
Supervisory Patent Examiner, Art Unit 2178